

Otto Candies, Jr., Otto Candies, III and Paul Candies (collectively, “Candies Parties”) since January of 2011 in the Interpleader Suit.

2. On January 24, 2011, counsel for GE contacted Tom Henderson, counsel for the Candies Parties, requesting that he provide available dates to for each to be deposed. (See email dated January 24, 2011, attached hereto as Exhibit “1”). Mr. Henderson responded that he had passed GE’s request to Karl Zimmerman, co-counsel for the Candies Parties and would “be back to you [GE] asap.” *Id.* Counsel for GE heard nothing further from Mr. Henderson in response to its January 24 request.

3. Counsel for GE next contacted Mr. Henderson, together with Tom Cortazzo and David Carrigee, also counsel for the Candies Parties, on January 28, 2011, again requesting available dates to depose the Candies Parties. (See email dated January 28, 2011, attached hereto as Exhibit “2”). No response was received to GE’s January 28, 2011 request.

4. On February 28, 2011, counsel for GE sent a third request to Mr. Henderson and Mr. Cortazzo. GE enclosed Deposition Notices for the Candies Parties with this request because counsel for Otto Candies had been unresponsive to GE’s two previous attempts to arranges deposition dates. (See email dated February 28, 2011 attached hereto as Exhibit “3”). GE advised that “[A]lthough we have noticed each deposition for a certain date and time, we are certainly willing to work with you. If you have a conflict with any of the dates and/or times for which we have noticed these depositions, please contact us to reschedule.” *Id.*

5. Mr. Cortazzo contacted counsel for GE advising that he would be traveling and participating in a sanctions hearing in the main bankruptcy case on two of

the dates in which GE had noticed depositions. (See email dated March 2, 2011, attached hereto as Exhibit “4.”) GE agreed to reschedule the depositions of the Candies Parties. *Id.* Mr. Cortazzo never contacted GE with new available dates to do so.

6. On March 16, 2011, counsel for GE made a fourth attempt to obtain available dates from counsel for the Candies Parties. (See email dated March 16, 2011, attached hereto as Exhibit “5”). In an email to Mr. Cortazzo, counsel for GE advised that, if they did not receive available dates before 12:00 p.m., on March 18, 2011, counsel for GE would have no choice but to file a Motion to Compel. *Id.*

7. Finally, in an attempt to avoid having to file this Motion to Compel and involve the Court in this matter, on March 17, 2011, following the hearing on Otto Candies’ Motion to Consolidate, counsel for GE again requested Mr. Cortazzo and Mr. Henderson to discuss available dates to depose their clients or GE would have no choice but to file a Motion to Compel. (See email dated March 17, 2011, attached hereto as Exhibit “6”). GE has received no response to either its conversation in court or follow-up email.

8. GE’s good faith efforts to secure the testimony of the Candies Parties prior to the April 15, 2011 discovery deadline have been met with continued resistance and opposition. GE has attempted to obtain dates to depose the Candies Parties with virtually no cooperation, and delay on the part of the Candies Parties at this time is unnecessary and transparent. GE has endeavored to move these matters forward, while the Candies Parties have stonewalled GE.

9. Consequently, for the reasons set forth above, pursuant to Rule 37 of the Federal Rules of Civil Procedure, GE is requesting that this Court issue an Order

compelling the corporate representative of Otto Candies, LLC to appear on April 5, 2011; Otto Candies, Jr. to appear on April 6, 2011; Otto Candies, III to appear on April 7, 2011; and Paul Candies to appear on April 8, 2011 at the offices of Adams and Reese, LLP, located at 1221 McKinney, Suite 4400, Houston, Texas, 77010 at 9:30 a.m. for their depositions to be taken. In addition, GE has incurred substantial (and unnecessary) expenses and attorneys' fees due solely to the Candies Parties' lack of cooperation and delay in setting simple depositions. Accordingly, GE seeks an award of expenses and attorney's fees associated with the filing of this motion pursuant to Rule 37(a)(5).

WHEREFORE, GE requests that this Court issue an Order Granting its Motion to Compel, order the Candies Parties to appear for their depositions as set forth above, granting GE its expenses and attorney's fees associated with the filing of this motion, and for all other relief to which GE may be entitled in law and equity.

Respectfully submitted,

ADAMS AND REESE LLP

By: /s/ Susan C. Mathews

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been forwarded to all parties on the attached Service List via electronic file notification by the Clerk of the Court, except those parties as indicated (*), on this 18th day of March 2011.

/s/ Susan C. Mathews

Susan C. Mathews

SERVICE LIST

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